

FILED
APR 27 2017
Clerk, U.S. District Court
District Of Montana
Billings

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**THOMAS DEAN SMITH AND
DUANE TIMOTHY SMITH, JR.,**

Defendants.

CR 16-46-BLG-SPW

**PRELIMINARY ORDER OF
FORFEITURE**

WHEREAS, in the superseding indictment in the above case, the United States sought forfeiture of any property of the above-captioned persons, pursuant to 21 U.S.C. § 853, as property used or intended to be used to facilitate the violations alleged in the superseding indictment, or as proceeds of said violations;

AND WHEREAS, on November 30, 2016, Duane Timothy Smith, Jr. entered pleas of guilty to Count I of the superseding information, which charged him with conspiracy to distribute and possess with intent to distribute

methamphetamine, in violation of 21 U.S.C. § 846, and Count II, which charged him with possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c);

AND WHEREAS, on December 13, 2016, Thomas Dean Smith entered pleas of guilty to Count I of the second superseding information, which charged him with conspiracy to distribute and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. § 846, and Count II, which charged him with possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c);

AND WHEREAS, based upon this motion, the parties agree that the following property shall be subject to forfeiture:

- \$17,121 in United States Currency seized during the search of the Smiths' residence on September 29, 2015.

AND WHEREAS, by virtue of said guilty pleas and this motion, the United States is now entitled to possession of the property, pursuant to 21 U.S.C. § 841(a)(1), 21 U.S.C. § 853, and Rule 32.2(b)(2), Federal Rules of Criminal Procedure.

ACCORDINGLY, IT IS ORDERED:

1. That based upon the pleas of guilty by the defendants and this motion, the United States is authorized and ordered to seize the property described above. This property is forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n)(1).

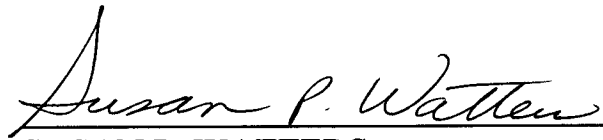
2. That the aforementioned forfeited property is to be held by the United States in its secure custody and control.

3. That, pursuant to 21 U.S.C. § 853(n)(1), the United States forthwith shall publish at least once for three successive weeks in a suitable means of general circulation notice of this order, notice of the United States' intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than the defendant, having or claiming a legal interest in the above-listed forfeited property must file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. This notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property and any additional facts supporting the petitioner's claim and the relief sought.

The United States may also, to the extent practical, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the preliminary order of forfeiture, as a substitute for published notice as to those persons so notified.

4. That upon adjudication of all third-party interests, this Court will enter a final order of forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

DATED this 27th day of April 2017.



SUSAN P. WATTERS
United States District Court Judge